REMARKS

In response to the above-identified Office Action, Applicants seek reconsideration thereof. In this response, Applicants do not amend any claims, cancel any claims, or add any claims. Accordingly, Claims 1-18 are pending.

I.   Claims Rejected Under 35 U.S.C. § 102

Claims 1 and 15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,788,697 issued to Aweya, et al. ("Aweya"). Applicant respectfully traverses the rejection.

To anticipate a claim, the Examiner must show that a single reference teaches each of the elements of that claim. Among other elements, Claim 1 recites "(b) determining a cell discard threshold with respect to the total number of cells stored in the shared buffer and the changing rate, with respect to time, of the total number of the cells." Applicants submit that Aweya at least does not teach this element.

Aweya discloses a dynamic threshold computation component 102 which computes a common threshold T after every interval Δs time units. The computation is based on the shared buffer size (B), the sum of all the queue sizes (Σq), a step size (ΔT), and a parameter (γ) (col. 6, lines 38-65). Even if for the sake of argument Σq is characterized as the total number of cells stored in the shared buffer, there is nothing in Aweya that determines the changing rate of the total number of the cells with respect to time. The Examiner points to col. 6, lines 61-65 of Aweya for teaching the changing rate ("the dynamic buffering scheme allows the system to adapt intelligently to various traffic conditions and gives the network manager the ability to fine tune the network to different traffic characteristics.") However, nothing in the cited text mentions the changing rate of the total number of the cells with respect to time. Applicants have been unable to locate any

reference to the changing rate anywhere in Aweya. Aweya at most teaches summing up the queue sizes and filtering the sum (FIG. 4 at step 116), which are different from the changing rate of the total number of the cells with respect to time. Thus, Aweya does not teach each of the elements of Claim 1.

Claim 15 recites a "partitioner which determines whether or not to store the cells ... in the shared buffer with respect to the total number of cells stored in the shared buffer and the changing rate, with respect to time, of the total number of the cells." The determination of whether or not to store the cells is thus based on the total number of cells stored in the shared buffer and the changing rate, with respect to time, of the total number of the cells. For at least similar reasons mentioned above in regard to Claim 1, Aweya does not teach the changing rate of the total number of the cells with respect to time. Thus, Aweya does not teach each of the elements of Claim 15.

Accordingly, reconsideration and withdrawal of the anticipation rejection of Claims 1 and 15 are requested.

II.   Claims Rejected Under 35 U.S.C. § 103(a)

Claims 2, 6-8, 16-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Aweya in view of U.S. Patent Application No. 6,671,258 issued to Bonneau ("Bonneau"). Applicants respectfully disagree for the following reasons.

To establish a *prima facie* case of obviousness, the Examiner must show the cited references, combined, teach or suggest each of the elements of a claim. Claims 2, 6-8, and 16-18 depend from base Claims 1 and 15 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to Claims 1 and 15, Aweya does not teach or suggest each of the elements of Claims 2, 6-8, and 16-18.

Bonneau does not cure the defect of Aweya for failing to disclose the changing rate of the total number of cells with respect to time. At most, Bonneau teaches computing a target size (TSCS) for a service class within the shared buffer based on the disparity between the target size of

the shared buffer (TBS) and the total number of cells stored in the buffer (B_count) (col. 11, lines 11-18 and lines 51-52). The disparity represents the available space in the buffer and therefore is different from the changing rate of the total number of cells with respect to time as recited in Claims 1 and 15. Thus, <u>Aweya</u> in view of <u>Bonneau</u> does not teach or suggest each of the elements of Claims 1, 15, and their dependent Claims 2, 6-8, and 16-18. Accordingly, reconsideration and withdrawal of the obviousness rejection of Claims 2, 6-8, and 16-18 are requested.

III.   Allowable Subject Matter

Applicants note with appreciation that Claims 10-14 are allowed.

Claims 3, 4, 5, and 9 are objected to as being dependent from a rejected base Claim 1, but would be allowable if rewritten in an independent form. Applicants respectfully submit that as Claim 1 is in condition for allowance for the reasons mentioned above, Claims 3, 4, 5, and 9 incorporating the limitations of Claim 1 are also allowable. Accordingly, reconsideration and withdrawal of the objection 3, 4, 5, and 9 are requested.
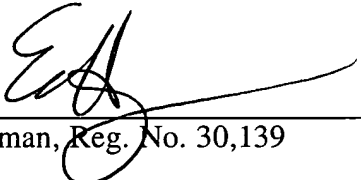
CONCLUSION

In view of the foregoing, it is believed that all claims now are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,
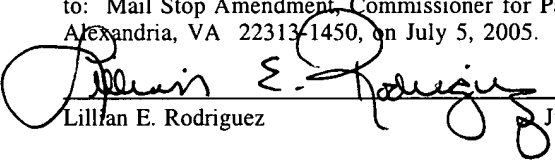
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: _____7/5_____, 2005

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